

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BPB, LLC, ET AL, Plaintiffs)
v.) CIVIL ACTION NO. 04-30021-MAP
JOSEPH J. MILLER, Defendant)

PROCEDURAL ORDER
RE: FINAL PRETRIAL CONFERENCE/TRIAL

February 24, 2004

PONSOR, D.J.

The above entitled action is scheduled for a final pretrial conference on JUNE 11, 2004 at 2:30 p.m. at the U.S. District Court, 1550 Main Street, 5th Floor, Springfield, Massachusetts. Each party shall be represented by trial counsel.

Pursuant to the provisions of Local Rule 16.5, counsel shall meet prior to the conference to accomplish the following:

- (1) to discuss and negotiate settlement of the action;
- (2) to draft and sign a stipulation as to all uncontested facts;
- (3) to narrow the issues to be tried;
- (4) to show to all parties any and all exhibits to be offered at trial;
- (5) to notify all parties of the names and addresses of all witnesses to be called at trial, including names and qualifications of expert witnesses.

Counsel shall prepare and file, no later than five (5) days before the conference, either jointly or separately, a pretrial memorandum which sets forth the following:

- (1) a concise statement of the evidence that will be offered by all parties with respect to both liability and damages (including special damages, if any);
- (2) a statement of facts established by the pleadings, by admissions or by stipulation;
- (3) contested issues of fact;
- (4) any jurisdictional questions;
- (5) any question raised by pending motions;
- (6) issues of law, including evidentiary questions, together with supporting authority;
- (7) any requested amendments to the pleadings;
- (8) any additional matters to aid in disposition of the case;
- (9) the probable length of trial and whether jury or non-jury;
- (10) a list of the names and addresses of witnesses who will testify at trial and the purpose of the testimony;
- (11) a list of the proposed exhibits to be offered at trial. Counsel shall distinguish those exhibits to be introduced without objection from those to be introduced with objection.

One (1) week before the commencement of a jury trial, counsel shall file the following:

- (1) any proposed voir dire questions;
- (2) any pretrial motions i.e., motions in limine, for a view, etc.;
- (3) any proposed jury instructions, special verdict form or special interrogatories.

In addition, one week before trial, special requests regarding trial transcripts, i.e., daily copy or expedited transcripts, if any, will be submitted to the court reporter.

Immediately upon receipt of this Order, any counsel who realizes that one or more attorneys have not been notified shall forthwith notify the additional attorney(s) in writing as to the entry of this Order and file a copy of the writing with the Clerk.

Compliance with this Order is not excused, absent the filing of closing papers or the entry of a Settlement Order of Dismissal in a form prescribed by the court.

PLEASE NOTE: The court requires twenty-four (24) hours notice of settlement. Any settlement on the eve of trial may result in the imposition of costs, including the costs associated with bringing in jurors unnecessarily.

BY THE COURT,

/s/ Elizabeth A. French
ELIZABETH A. FRENCH, Deputy Clerk
(413) 785-0240